

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

APPEAL FROM ORDER NO.205 OF 2000

Sahibul Hassan Shaikh and others ..Appellants

V/s.

The Municipal Corporation of ..Respondents
Brihanmumbai

Mr.Rajiv Patil, advocate for appellants
Mrs.Geeta Joglekar, advocate for BMC

Coram : D.G.Karnik, J

Date : 13th November, 2006

P.C.

1. Heard learned counsel for the parties. This appeal is directed against the order dated 22nd February, 2000 passed by the learned judge of City Civil Court dismissing motion No.257 of 2000 of the appellants. The appellants are tenants of the suit premises.

2. The respondent No.1, Mumbai Municipal Corporation issued notice dated 19th July, 1999 U/s.351 of the Mumbai Municipal Corporation Act, requiring the appellants to show cause why the suit structure should not be demolished as it was

constructed without its prior permission. Immediately on receipt of the notice appellants filed a suit bearing Long Cause No.7212 of 1999 for an injunction restraining the respondent No.1, from demolishing suit structure. The appellants took out motion bearing notice of motion No.257 of 2000 for an injunction restraining respondent No.1 by an interim order from demolishing suit premises denying pendency of the suit. By an order dated 22nd February, 2000 learned judge of the City Civil Court declined to grant injunction and dismissed the motion. That order is impugned in this appeal.

2. By an interim order dated 23rd March, 2000 passed in Civil Application No.2401 of 2000 in this appeal, this Court granted ad-interim relief in terms of prayer clause (a) of the Civil Application **restraining** respondent No.1, from demolishing suit premises in pursuance of the notice dated 19th July, 1999. The said interim relief is in force for more than six years. In the circumstances, justice would be done if the said interim relief is continued till the decision of the suit with the

direction to expeditiously hear and decide the suit. No useful purpose would be served at this stage by hearing matter on merits. Hence, without going into the merits of the matter it is directed that the trial Court shall dispose of suit expeditiously and in any event within a period of two years. Interim relief granted by this Court dated 23rd March, 2000 shall continue to operate till the disposal of the suit. The appeal is disposed of in the aforesaid terms.

(D.G.Karnik, J.)